

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of	)	
	)	
AT&T's Petition for the Establishment	)	RM-8334
of Additional Standards to Govern Study	)	
Area Boundary Changes in Connection	)	
With the Transfer of Service Territories	)	
Between or Among Local Exchange Carriers	)	
	)	
Amendment of Part 36 of the Commission's	)	CC Docket No. 80-286
Rules and Establishment of a Joint Board	)	

GTE's COMMENTS ON AT&T'S PETITION FOR RULEMAKING

GTE Service Corporation and  
its affiliated domestic  
telephone operating companies

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October 20, 1993

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## **SUMMARY**

1. GTE supports data requirements that cover objective, relevant information that will assist the Commission in its evaluation of study area boundary changes. Subjective, speculative information should not be made a requirement of a waiver request, nor should information that centers on state regulatory issues since the states can be expected to resolve such questions in the public interest.

2. Additions to the data requirements should be accompanied by action adopting the simplification procedures proposed by the Commission itself in 1990.

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**GTE's COMMENTS ON AT&T's  
PETITION FOR RULEMAKING**

GTE Service Corporation and its affiliated domestic telephone operating companies ("GTE") respond to the FCC's Public Notice, DA 93-1128 (released September 20, 1993) (the "Notice") and hereby submit the following comments on AT&T's Petition For Rulemaking (the "Petition") to establish additional standards for evaluating study area waiver requests.

**BACKGROUND**

In the Petition, AT&T asks the Commission to initiate a proceeding to establish additional standards to govern modifications in study area boundaries in connection with transfers of service territories between or among Local Exchange Carriers ("LECs" or "exchange carriers"). AT&T (at 8) asserts that the Commission's current requirements for granting waivers of the Commission's Rules with regard to sales of LEC exchanges are not sufficiently specific to satisfactorily resolve the impact on USF growth. Accordingly, AT&T (at 10-12) recommends additional requirements as follows:

- 1) Each LEC purchasing an exchange should be required to submit to the Commission, and place on public file, an estimate of the impact of that

transaction on the LEC's eligibility for high cost support and, if applicable, on the amount of additional subsidy the LEC will receive from the USF.

- 2) The Commission should require the purchaser and seller to furnish the Commission, as part of their public filing, with detailed information regarding the valuation of the exchange assets included in the transaction. Specifically, these would include:
  - A) The book value of the plant being sold.
  - B) The date of installation, and depreciation rate, of that plant.
  - C) The subscriber plant factor ("SPF") of loop assets being sold.
  - D) The dial equipment minutes ("DEM") factor of any switches being sold, and the DEM factor (weighted) of the buyer.
  - E) The depreciation reserves of all assets in the transaction (together with a showing that continuing property records are maintained).
  - F) The number of miles of subscriber loop plant being sold.
  - G) The excess deferred taxes for the assets being sold.
  - H) Pro-forma revenue requirement calculations, pre- and post-sale.
  - I) The accounting plans of the buyer to book the purchase price and construction costs.
  - J) A statement of whether the buyer intends to request waiver of section 32.2005 (establishing book value as amount to be written above the line for inclusion in rate base).
  - K) Any outstanding state commission order or plan that creates an obligation on the selling LEC to upgrade or extend the existing service.
  - L) The extent to which the selling LEC's current rates are based on these obligations.

- M) If applicable, the construction and investment plan of the buyer that will accomplish the upgrading and extension mentioned in the LEC's petition.
- 3) The purchaser of an exchange should be required to demonstrate the extent to which local ratepayers will assume the cost burden of any planned upgrades in service, "which otherwise could be borne primarily by access ratepayers contributing to the high cost fund". Petition at 12.

### DISCUSSION

1. **While GTE does not object to reasonable data requirements, some of the items proposed by AT&T would be burdensome and unnecessary.**

The Commission is highly experienced in dealing with these waiver requests, having disposed of many such requests over the last few years.<sup>1</sup> The factors relevant to the Commission's decision to grant or deny a waiver are spelled out in these decisions. In principle, GTE does not object to more precise identification of data requirements. This would permit a party planning to file a request to make full preparation knowing what is expected.<sup>2</sup>

The Petition, however, goes beyond merely listing the data the staff has asked for in the past and on the basis of which the Commission has resolved these questions. Objective information that is relevant to the transactions can and should be placed in the public waiver request. On the other hand, the Commission should avoid expanding

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<sup>1</sup> See, for example: The Island Telephone Company, 7 FCC Rcd 6382 (1992).

<sup>2</sup> Indeed, the Commission has recently taken a step in this direction by providing suggestions for parties filing study area waiver requests. See Public Notice, DA 93-1093 (released September 7, 1993). While, as indicated *infra*, GTE is not in agreement that all the items suggested are necessary and appropriate, there is a great deal to be said for a less formal approach than still another rule setting out still another list of iron-clad requirements. For one thing, many transactions in this area are so small or their merits are so clear-cut that there is no need for extensive data submissions.

the zone of inquiry and increasing the effective burdens to be carried above and beyond what is necessary.

GTE's concerns involve the items 2H, 2L and 3 *supra*, which are the following:

1. Providing pro-forma revenue requirement calculations, pre- and post-sale.
2. Providing the extent to which the selling LEC's current rates are based on these obligations; and
3. Providing a demonstration by the party purchasing an exchange of the extent to which local ratepayers will assume the cost burden of any planned upgrades in service, "which otherwise could be borne primarily by access ratepayers contributing to the high cost fund." Petition at 12.

None of this data is necessary for the Commission to decide on the grant of a waiver under established legal principles. All three of these items involve information that is subjective, hypothetical, indeed speculative. Specifically;

**A. Requiring pre- and post-sale pro-forma revenue requirement calculations is unnecessary and burdensome.**

Given the number of Basic Separations Studies, Traffic Studies and accounting detail that would have to be developed and collected to accomplish any reasonable revenue requirement calculation, providing these calculations would be burdensome and time-consuming, as would also be Commission review of this data. GTE must express concern that this could drastically slow the waiver approval process, thus delaying for exchange carriers and their subscribers the benefits of the transactions. For price cap carriers — including carriers under counterpart plans at the state level — the value of the traditional revenue requirement calculation is very slight in terms relevant to a request for a study area waiver. The Commission can properly evaluate the waiver request absent this material.

- B. Also burdensome and unnecessary would be requiring the selling LEC to show the extent to which its current rates are based on obligations to upgrade or extend the existing service created by an outstanding state commission order or plan.**

Assuming the Commission has been furnished with any state commission order or plan that creates obligations to upgrade or extend existing service, asking the selling exchange carrier to identify the extent to which current rates are based on such obligations would involve that carrier in speculation – with the possible exception of the rare case where there is a specific surcharge order. Even if a dollar amount were specifically identified, the amount that would be applicable to the exchange being sold would require subjective assumptions that may be challenged, a process that would only delay the waiver request and consume Commission and industry resources. In other cases, this would mean an attempt to assign a portion of current rates to a specific purpose, which enters the domain of speculation. If a case arises where information of this kind is shown to be relevant, the FCC staff will ask for it. There is no reason to include such speculative material in a rule.

- C. There is no need for a demonstration by the purchasing party of the extent to which local ratepayers will assume the cost burden of any planned upgrades in service, and this would involve the FCC in matters handled by the relevant state commission.**

The third proposal to which GTE objects is that the purchaser must demonstrate the extent to which local ratepayers will assume the cost burden of any planned upgrades in service. It should be stressed that the Commission will only be considering waiver requests in cases where the relevant state commission supports the waiver application. The state commission is already fully aware of the impact on local ratepayers.

State commissions can be expected to weigh a wide variety of state regulatory issues that affect their decision and to reach a decision in the public interest. Moreover, this is a matter that could be brought up regardless of whether the property has recently changed hands. In the unlikely event that a case arises where information



of this kind is shown to be relevant, the FCC staff will ask for it. There is no reason to include such material in a rule.<sup>3</sup>

**In summary:** GTE supports data requirements that cover objective, relevant information that will assist the Commission in its evaluation of study area boundary changes. Subjective, speculative information should not be made a requirement of a waiver request. Information that centers on state regulatory issues should not be required since the states can be expected to resolve such questions in the public interest.

**2. GTE suggests that the Commission should adopt rule modifications that make processing of these applications more efficient as it proposed in 1990.**

In addressing this matter, it should be recalled at the outset that established Commission policy is to be sure the market value of properties are not adversely affected.<sup>4</sup> It should also be recalled that the Commission initiated a proceeding several years ago as part of CC Docket No. 80-286 ("D.80-286") — double-captioned on the instant submission — that proposed "streamlining" of the Commission's Rules to eliminate unnecessary delays and procedural blocks.<sup>5</sup>

Now that the FCC is looking at its rules to permit a more efficient and systematic processing of applications, GTE suggests this should be accompanied by carrying through on the excellent intentions behind the earlier initiative. In other words, the FCC should not increase procedural burdens in this area without considering whether the

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<sup>3</sup> The Commission is already addressing in other proceedings the broad questions of policy affecting universal service. There is no reason to bring such policy questions into these quite limited, and typically simple, matters involving application of long-established policy.

<sup>4</sup> See Amendment of Part 69, CC Docket No. 89-2, Report and Order, 5 FCC Rcd 231, 246-48 (1989).

<sup>5</sup> See Report No. DC-1725, 1990 FCC LEXIS 5371 (October 10, 1990).

simplification plan the Commission itself proposed three years ago should be put into effect.<sup>6</sup>

**In summary:** Additions to the data requirements should be accompanied by action adopting the simplification procedures proposed by the Commission itself in 1990.

Respectfully submitted,

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<sup>6</sup> GTE offered certain suggestions with regard to that proposed plan. In D.80-286, see GTE's Comments dated November 30, 1990 and Reply Comments dated December 14, 1990.

## **Certificate of Service**

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "GTE's Comments on AT&T's Petition for Rulemaking" have been mailed by first class United States mail, postage prepaid, on the 20th day of October, 1993 to all parties on the attached list.



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